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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Item 12 of the provisional agenda

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN OR MAY BE CONCERNED

Note by the Secretary-General

1. Pursuant to Sub-Commission resolution 5 (XIV), the present note reviews developments between 1 June 1997 and 1 June 1998 in fields with which the Sub-Commission has been previously concerned. It supplements those questions which are dealt with in the annotations to the provisional agenda for the forty-ninth session of the Sub-Commission (E/CN.4/Sub.2/1998/1/Add.1).

I. INTERNATIONAL COVENANTS ON HUMAN RIGHTS

2. As at 1 June 1998, 137 States had ratified, acceded or succeeded to the International Covenant on Economic, Social and Cultural Rights. As at the same date 140 States had ratified, acceded or succeeded to the International Covenant on Civil and Political Rights and 92 States had ratified or acceded to the Optional Protocol to the latter. On 23 October 1997 and 26 May 1998, respectively, the Governments of Jamaica and Trinidad and Tobago notified the Secretary-General of their decisions to denounce the Optional Protocol. In accordance with article 12 of the Protocol, the denunciation of Jamaica took effect on 23 January 1998 and that of Trinidad and Tobago will take effect on 26 August 1998. Additionally, the Government of Trinidad and Tobago submitted an instrument of reaccession to the Protocol with reservations on 26 May 1998, which will take effect on the same day as its denunciation. With respect to article 41, paragraph 1, of the International Covenant on Civil and Political Rights, 45 States had made the declaration envisaged under that provision of the Covenant.

3. The Second Optional Protocol aiming at the abolition of the death penalty, which was adopted and opened for signature, ratification or accession by the General Assembly in resolution 44/128 of 15 December 1989, entered into force on 11 July 1991 in accordance with the provisions of its article 8. As at 1 June 1998, there were 33 States parties to that Protocol.

Committee on Economic, Social and Cultural Rights

4. At its seventeenth and eighteenth sessions, held in November-December 1997 and in April-May 1998, respectively, the Committee considered reports submitted by 10 States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, as well as the situation in one country in the absence of a report from that State party. The Committee subsequently adopted its concluding observations thereon.

5. At its seventeenth session, the Committee adopted General Comment No. 8 (1997) on "The relationship between economic sanctions and respect for economic, social and cultural rights".

6. At the same session, the Committee adopted its report on the mission conducted in the Dominican Republic, from 19 to 27 September 1997, by two of its members. The mission focused on the realization of the right to adequate housing, under article 11 of the Covenant. The Committee was appreciative of the active cooperation which the mission received from the Government of the Dominican Republic, non-governmental organizations and United Nations Development Programme.

7. The Committee further held its Day of General Discussion on the right to food under article 11 of the Covenant.

8. At its eighteenth session, in private meetings, the Committee discussed ways to improve its methods of work. The Committee decided that in the future it would meet in private half an hour before starting consideration of a country report, in order to pinpoint the main problems to be addressed during public discussion. Other issues raised by the Committee included the need to focus on cultural rights; the need for experts to coordinate their questions; the role of the rapporteur for each country report; the possibility of appointing a co-rapporteur; the need to have updated information on each country being considered by the Committee; and the need to restructure the concluding observations.

9. It was recalled that among the decisions adopted by the Commission on Human Rights at its fifty-fourth session in 1998 was a call for a review of the various human rights mechanisms, in order to improve their functioning.

10. At the same session, the Committee held its Day of General Discussion on "Globalization and its impact on the enjoyment of economic and social rights" with the participation of representatives of specialized agencies, intergovernmental and non-governmental organizations.

11. The debate focused on the effects of globalization and liberalization of international trade and finance on the bargaining power of developing countries as well as on the most vulnerable groups in both developing and

industrialized countries. There was a general consensus that the observance of human rights norms and standards should be adhered to and that social safety nets should be put in place.

12. The Committee's report on its sixteenth and seventeenth sessions (E/1998/22-E/C.12/1997/10) will be before the Economic and Social Council at its substantive session in July 1998.

Human Rights Committee

13. During its sixtieth, sixty-first and sixty-second sessions held in July, October-November 1997 and March-April 1998, respectively, the Committee considered 13 reports submitted by States parties under article 40 of the International Covenant on Civil and Political Rights.

14. At its sixty-first session the Committee adopted General Comment No. 26 (67) on issues relating to the continuity of obligations to the Covenant.

15. During the three sessions, the Committee also adopted 33 Views under article 5, paragraph 4, of the Optional Protocol to the Covenant, 20 decisions declaring complaints admissible and 13 decisions declaring complaints inadmissible, and five cases were discontinued without a formal decision issued by the Committee.

16. A report on the Committee's fifty-eighth to sixtieth sessions was submitted to the General Assembly at its fifty-second session (A/52/40) and a report on its sixty-first to sixty-third sessions will be submitted to the General Assembly following the Committee's sixty-third session in July 1998.

Commission on Human Rights

17. The Commission, at its fifty-third session, adopted decision 1997/104 of 3 April 1997 concerning the status of the International Covenants on Human Rights. The Commission decided, inter alia, to request the Secretary-General to transmit the text of the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, contained in document E/CN.4/1997/105, to Governments and intergovernmental and non-governmental organizations for their comments for submission to the Commission on Human Rights at its fifty-fourth session.

18. In accordance with several General Assembly and Commission on Human Rights resolutions encouraging States to adhere to international human rights instruments and to comply with the reporting obligations therein and, to this end, to avail themselves of the assistance of the United Nations, the Office of the High Commissioner for Human Rights has organized a second meeting on universal adherence to the principal international human rights instruments for countries from the Asian-Pacific region in Amman on 1 to 4 September 1997. (The first one was organized for countries from the African region in Addis Ababa from 14 to 17 May 1996.) In addition, seminars and training courses on reporting procedures are regularly organized under the fellowship

programme of the Office of the High Commissioner for Human Rights, independently and in collaboration with the United Nations Staff College Project.

II. INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

19. As at 1 June 1998, 150 States had adhered to the International Convention on the Elimination of All Forms of Racial Discrimination.

Committee on the Elimination of Racial Discrimination

20. During its fifty-first and fifty-second sessions, held in August 1997 and March 1998 respectively, the Committee considered reports submitted by 22 States parties to the Convention. Additionally, the Committee reviewed the application of the Convention in four States parties whose reports were seriously overdue. Under its early-warning and urgent procedures, the Committee adopted four decisions at its fifty-first session and four decisions at its fifty-second session. The Committee discussed the programme of action for the Third Decade to Combat Racism and Racial Discrimination at each of its sessions.

21. At its fifty-first session, the Committee adopted General Recommendation XXIII (51) on the rights of indigenous peoples.

General Assembly

22. A report on the Committee's fiftieth and fifty-first sessions was submitted to the General Assembly at its fifty-second session (A/52/18) and a report on the Committee's fifty-second and fifty-third sessions will be submitted to the General Assembly at its fifty-third session following the Committee's fifty-third session in August 1998.

23. At its fifty-second session, the General Assembly adopted resolution 52/110 of 12 December 1997, concerning the report of the Committee on the Elimination of Racial Discrimination, in which it called upon all States that had not yet ratified or acceded to the Convention to do so as soon as possible; requested the Secretary-General to invite all States parties that were in arrears to fulfil their outstanding financial obligations under article 8, paragraph 6, of the Convention; commended the Committee for its contribution to the prevention of racial discrimination, including early-warning measures and urgent procedures; welcomed the cooperation and exchange of information of the Committee with relevant structures and mechanisms of the United Nations and encouraged their continuation in the future, including with the High Commissioner for Human Rights of the United Nations. The Assembly also encouraged the use of innovative procedures by the Committee for reviewing the implementation of the Convention in States whose reports were seriously overdue and the formulating of concluding observations on reports of States parties to the Convention.

Commission on Human Rights

24. At its fifty-fourth session, the Commission on Human Rights adopted on 17 April 1998 resolution 1998/26, which addressed, inter alia, the International Convention on the Elimination of Racial Discrimination. The Commission on Human Rights appealed to States that have not yet done so to consider ratifying or acceding to the Convention; recommended that the issue of universal ratification of the Convention, as well as reservations thereto, and the competence of the Committee on the Elimination of Racial Discrimination to receive individual complaints be considered at the World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance; called upon States parties that had not submitted initial or periodic reports in accordance with article 9 of the Convention to do so; urged States parties to limit the extent of any reservations they lodge to the Convention; called upon States parties to the Convention to adopt immediately positive measures aimed at the elimination of all forms of racial discrimination, xenophobia and related intolerance; and requested States parties to the Convention to consider the possibility of making the declaration provided for in article 14 of the Convention.

25. The Commission on Human Rights also invited the Committee on the Elimination of Racial Discrimination to give high priority to the preparatory process for the World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance, and to present to the Commission at its fifty-fifth session and to the Preparatory Committee its contribution to the objectives of the Conference, including undertaking a series of studies, and to participate actively in the preparatory process and at the Conference itself.

III. CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

26. As at 1 June 1998, the Convention had been ratified or acceded to by 105 States.

Committee against Torture

27. The Committee submitted a report on its seventeenth and eighteenth sessions to the General Assembly at its fifty-second session (A/52/44). At its nineteenth and twentieth sessions, held from 10 to 21 November 1997, and from 4 to 22 May 1998, respectively, the Committee against Torture considered 16 reports submitted by the States parties under article 19 of the Convention. It also continued in closed meeting its activities under article 20 (inquiries) and 22 (individual communications) of the Convention. During its two sessions, the Committee had 70 communications before it for consideration. It took decisions to declare five communications admissible and seven inadmissible and to discontinue four communications. In addition, the Committee adopted Views in respect of nine communications. At a joint meeting held on 19 May 1998, the Committee against Torture, the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, the Special Rapporteur of the Commission of Human Rights on the question of torture and the United Nations High Commissioner for Human Rights adopted and decided to issue a joint declaration for United Nations International Day in Support of

Victims of Torture, 26 June 1998. A report on the Committee's nineteenth and twentieth sessions will be submitted to the General Assembly at its fifty-third session.

Commission on Human Rights

28. The Commission, at its fifty-fourth session, adopted resolution 1998/38 of 17 April 1998, concerning torture and other cruel, inhuman or degrading treatment or punishment. In its resolution, the Commission, inter alia, urged all States to become parties to the Convention as a matter of priority; invited all States ratifying or acceding to the Convention and those States parties that had not yet done so to make the declaration provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to article 20; encouraged the States parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible; and welcomed the work of the Committee against Torture and its practice of formulating concluding observations after the consideration of State party reports, as well as its practice of carrying out inquiries into cases where there were indications of the systematic practice of torture in States parties.

IV. CONVENTION ON THE RIGHTS OF THE CHILD

29. At its sixteenth, seventeenth and eighteenth sessions, held in September-October 1997, January and May-June 1998, respectively, the Committee considered 15 reports submitted under article 44 of the Convention on the Rights of the Child.

30. During its sixteenth session the Committee decided to devote one day of discussion to the issue of "children with disabilities". Representatives of United Nations bodies, specialized agencies and other competent bodies, including non-governmental organizations, and children contributed to the discussion and provided expert advice.

31. At its seventeenth session, the Committee decided to devote its next thematic debate to the issue of "children living in a world with AIDS". The debate is scheduled to take place on 5 October 1998. A working group was established composed of Mrs. Mboi and Mrs. Mokhuane, to prepare an outline for the discussion.

32. In July 1997, the High Commissioner's Plan of Action to strengthen the implementation of the Convention on the Rights of the Child became operational. It started to provide substantive support to the Committee's work and initiated follow-up work to its recommendations.

33. Pursuant to ECOSOC resolution 1996/13, one Committee member attended a meeting in Vienna on 6-9 November 1997 organized by the United Nations Crime Prevention and Criminal Justice Division, to discuss a strategy for the coordination panel on juvenile justice. Participants agreed on a strategy intending to improve coordination and cooperation between United Nations agencies and bodies, non-governmental organizations and other expert bodies in implementing juvenile justice programmes at the country level.

General Assembly

34. At its fifty-second session, the General Assembly called upon States parties to take appropriate measures so that acceptance of the amendment to the Convention on the Rights of the Child by a two-thirds majority of States parties could be reached as soon as possible; called upon States parties to ensure that the education of the child is carried out in accordance with article 29 of the Convention; and also called upon States parties, in accordance with their obligations under article 42, to make the principles and provisions of the Convention widely known to adults and children alike. It also requested the Secretary-General to submit to the Assembly at its fifty-third session a report on the rights of the child, containing information on the status of the Convention and the problems addressed in the resolution (resolution 52/107).

Commission on Human Rights

35. The Commission, at its fifty-fourth session, adopted resolution 1998/76 on the rights of the child. Among other things, the resolution focused on the implementation of the Convention on the Rights of the Child, the girl child, the prevention and eradication of the sale of children and of their sexual exploitation and abuse, including child prostitution and child pornography, protection of children affected by armed conflict, protection of refugee and internally displaced children, elimination of the exploitation of child labour, the plight of children working and/or living on the street and children with disabilities. The Commission on Human Rights also adopted under item 20 (rights of the child) a resolution (1998/75) on the abduction of children from northern Uganda.

V. EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS INCLUDING REPORTING OBLIGATIONS OF STATES PARTIES TO THE UNITED NATIONS INSTRUMENTS IN THE FIELD OF HUMAN RIGHTS

36. The chairpersons of the human rights treaty bodies held their eighth annual meeting from 15 to 19 September 1997 at the United Nations Office at Geneva, where they discussed issues relating to the effective implementation of international human rights instruments and the improvement of the operation of the relevant human rights treaty bodies. Pursuant to General Assembly resolution 52/118, an extraordinary meeting was held from 25 to 27 February 1998 to enable the chairpersons to pursue the reform process aimed at improving the effective implementation of international instruments on human rights. The report of their eighth meeting containing their suggestions and recommendations was submitted to the General Assembly at its fifty-second session (A/52/507, annex) and the report of their ninth (extraordinary) meeting will be made available to the General Assembly at its fifty-third session.

37. The independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty monitoring system, whose position had been established by resolution 1989/47 of the Commission of 6 March 1989, submitted his final report to the Commission (E/CN.4/1997/74) at its fifty-third session in 1997. In its decision 1997/105, the Commission had welcomed the report and invited the Secretary-General to solicit the views of United Nations bodies,

Governments, specialized agencies, intergovernmental and non-governmental organizations and interested persons on the report of the independent expert and to submit a report thereon, including the Secretary-General's own views on the legal, administrative and other implications of the report's recommendations, to the Commission at its fifty-fourth session. That report of the Secretary-General was submitted to the Commission at its fifty-fourth session in 1998 (E/CN.4/1998/85 and Add.1 and Corr.1).

38. At its fifty-second session the General Assembly adopted resolution 52/118 of 12 December 1997 in which it, inter alia, welcomed the submission of the report of the persons chairing the human rights treaty bodies on their eighth meeting and took note of their conclusions and recommendations; welcomed the submission to the Commission on Human Rights of the final report of the independent expert; encouraged the chairpersons of the human rights treaty bodies to continue their efforts to development appropriate reforms of the reporting system, including through the continued examination of the benefits of reports focused on a limited range of issues and of opportunities for harmonizing the general guidelines regarding the form and content of reports, the timing of consideration of reports and the methods of work of the treaty bodies; called upon the Secretary-General to complete as soon as possible the detailed analytical study comparing the provisions of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is being prepared with a view to identifying duplication of reporting required under those instruments; requested the Secretary-General to compile in a single volume all the general guidelines regarding the form and content of reports to be submitted by States parties that have been issued by the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child and the Committee against Torture; encouraged the Economic and Social Council, as well as its functional commissions and their subsidiary bodies, and other United Nations bodies and specialized agencies to consider the feasibility of participation by representatives of the human rights treaty bodies in their meetings; and endorsed the request of the persons chairing the human rights treaty bodies that the Division for the Advancement of Women of the Secretariat prepare a study, for use by the United Nations High Commissioner for Human Rights and the treaty bodies, analysing what each treaty body has done to incorporate gender perspectives into its work and making practical suggestions about what each could do to further incorporate gender perspectives.

39. The Commission on Human Rights, in its resolution 1998/27 of 17 April 1998 adopted at its fifty-fourth session, welcomed the reports of the seventh and eighth meetings of the persons chairing the human rights treaty bodies (A/51/482, annex and A/52/507, annex), and the holding of the ninth meeting in Geneva from 25 to 27 February 1998, and took note of the conclusions and recommendations of those meetings; took note of the report of the Secretary-General on the effective functioning of bodies established

pursuant to United Nations human rights instruments (E/CN.4/1998/85 and Add.1 and Corr.1); invited the Secretary-General to continue to solicit the views of Governments, United Nations bodies, specialized agencies, intergovernmental and non-governmental organizations and interested persons on the report of the independent expert and to submit a report thereon, including the Secretary-General's own views on the legal, administrative and other implications of the report's recommendations, taking into account further developments, to the Commission at its fifty-sixth session; called upon the Secretary-General to seek in the next biennium the resources within the United Nations regular budget necessary to give the human rights treaty bodies adequate administrative support and better access to technical expertise and relevant information; noted with interest the proposal for a plan of action to enhance the resources available to all the human rights treaty bodies, and encouraged the High Commissioner for Human Rights to prepare a draft plan of action for consideration by the persons chairing the treaty bodies at their next meeting; encouraged the chairpersons of the treaty bodies to continue their efforts to promote appropriate reforms of the reporting system, including through ongoing examination of the proposal for reports focused on a limited range of issues and of opportunities for harmonizing the general guidelines regarding the form and content of reports, the timing of consideration of reports, and the methods of work of the treaty bodies; welcomed the recommendation made at the meetings of the persons chairing the human rights treaty bodies that a priority of the technical cooperation programme of the Office of the High Commissioner for Human Rights should be to provide assistance to States parties, upon their request, with the implementation of their obligations under United Nations human rights instruments and, in particular, the recommendation made at the ninth meeting concerning the provision of assistance to States, upon their request, in the process of ratifying such instruments and the preparation of initial reports; and welcomed the request of the chairpersons of the human rights treaty bodies that the Division for the Advancement of Women of the Secretariat should prepare a study, for use by the United Nations High Commissioner for Human Rights and the treaty bodies, analysing what each treaty body has done to incorporate gender perspectives into its work and making practical suggestions about what each could do to further incorporate gender perspectives.

VI. INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

40. The Convention, which was adopted by the General Assembly in 1990, will enter into force when 20 States have ratified it. As at 1 June 1998, nine States (Bosnia and Herzegovina, Cape Verde, Colombia, Egypt, Morocco, the Philippines, Seychelles, Sri Lanka and Uganda) had ratified or acceded to the Convention and two States (Chile and Mexico) had signed it.

41. In resolution 52/115 of 12 December 1997, the General Assembly, inter alia, called upon all Member States to consider signing and ratifying or acceding to the Convention as a matter of priority, and expressed the hope that the Convention would enter into force at an early date; requested the Secretary-General to provide all facilities and assistance necessary for the

promotion of the Convention, through the World Public Information Campaign on Human Rights and the programme of advisory services in the field of human rights; and invited the organizations and agencies of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts with a view to disseminating information on and promoting understanding of the Convention.

42. The Commission on Human Rights, at its fifty-fourth session, adopted a similar resolution (1998/15 on 9 April 1998).